

Appln No.: 09/678,357
Amendment Dated: October 28, 2005
Reply to Office Action of April 28, 2005

Claims 14, 15, 18, 30 and 32 stand rejected under 35 USC § 103 as obvious over the combination of Oksanen et al. and Ma et al. The references teach several tests related to gastritis, and the Examiner says that performing multiple tests is obvious. Applicants submit that this argument is inappropriate as a *per se* rule, as it is applied in this case, because it fails to consider that additional information may be obtained through multiple tests that is not available through the tests individually. For the claims as pending, however, this issue need not be reached.

Independent Claim 14 recites the steps of multiplying the level of pepsinogen I by the level of *Helicobacter pylori* antibodies to get a number, and comparing the number to a number calculated similarly for the normal population. The Examiner has not shown this step in the art, and has not even addressed the limitation in the claim, other than by arguing that calculating a ratio of indicators is obvious. Whether or not it is true that determination of a ratio between known experimental values may be generally obvious,¹ the same thing cannot be said concerning the product (multiplication) of two values as set forth. For example, unlike a ratio where the value of the ratio reflects which of the individual numbers is greater, the product does not provide this information. In the present case, there is nothing in the art that suggests that taking the product of any two numbers would be a desirable step, or provide information of diagnostic significance. Thus, the claimed invention, as a whole, is not rendered obvious by the cited art.

For the foregoing reasons, Applicants submit that the claims of this application are in form for allowance. Favorable reconsideration and allowance of all pending claims are therefore urged.

Respectfully submitted,



Marina T. Larson Ph.D.
PTO Reg. No. 32,038
Attorney for Applicant
(970) 468-6600

Enclosure:
Request for extension of time
Credit card form

¹ This is not conceded, since a ratio is only meaningful if the indicators are known to vary independently in different conditions. Nothing in the art cited by the Examiner shows that even a ratio would have diagnostic significance.